

ATTACHMENT 89

*** CONFIDENTIAL ATTORNEYS EYES ONLY ***

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE)
COMPANY, INC.,) Case No.:
) 3:21-cv-03496-VC
Plaintiff,)
) Lead Case No.:
vs.) 3:21-cv-03825-VC
)
INTUITIVE SURGICAL, INC.,) Pages 1 to 65
)
Defendant)
_____)
IN RE: DA VINCI SURGICAL ROBOT)
ANTITRUST LITIGATION)
_____)
THIS DOCUMENT RELATES TO:)
ALL ACTIONS)
_____)

*** CONFIDENTIAL ATTORNEYS EYES ONLY ***

DEPOSITION OF:
KEITH ROBERT JOHNSON
IN HIS PERSONAL CAPACITY
THURSDAY, OCTOBER 27, 2022
1:27 p.m.

REPORTED BY:
Vickie Blair
CSR No. 8940, RPR-CRR
JOB NO. 5539883
PAGES 1 - 68

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1 your answers about that timeline be roughly the same? 14:52:00

2 MR. CHAPUT: Object to the form. 14:52:06

3 THE WITNESS: Yes, I'm -- I'm -- I'm a 14:52:09

4 sales guy, I'm looking for opportunities to sell. This 14:52:11

5 robotic program created an opportunity for SIS to 14:52:15

6 substantially increase the revenue of our organization, 14:52:18

7 a great opportunity, and that was what I -- I was -- I 14:52:20

8 was pumped about the opportunity. 14:52:24

9 BY MR. SNYDER: 14:52:25

10 Q Let's -- let's go -- let's go there next. 14:52:29

11 I just have a few questions. 14:52:33

12 This morning I believe you used the word 14:52:35

13 "monumental" in connection with the level of interest 14:52:41

14 in EndoWrist repair. 14:52:43

15 Is that a word that you used in that 14:52:44

16 context, Mr. Johnson? 14:52:46

17 A I believe I did, and I don't use that word 14:52:48

18 very often. 14:52:50

19 Q And are -- are there -- are there key -- 14:52:53

20 key moments or key events that you have in mind when 14:53:01

21 you refer to the monumental level of interest in 14:53:05

22 EndoWrist repair? 14:53:08

23 MR. CHAPUT: Object to the form. 14:53:11

24 THE WITNESS: Yeah, there's -- there's a 14:53:12

25 couple very distinct meetings that stick out in my 14:53:16

1 how large Vizient is? I mean, you said they're the 14:56:11
2 largest, but what does that mean? 14:56:15
3 A Yeah, they represent, don't quote me 14:56:16
4 specifically, but they represent somewhere between 14:56:19
5 2,500 and 3,000 hospitals. 14:56:22
6 Q And what -- what's Vizient's geographic 14:56:24
7 scope? 14:56:29
8 A National, every state in the union. 14:56:29
9 Q Another -- another name that I believe 14:56:36
10 came up earlier today was Johns Hopkins. 14:56:37
11 Did you mention Johns Hopkins? 14:56:41
12 A Yes. 14:56:43
13 Q What do you recall about -- did you meet 14:56:43
14 with Johns Hopkins at any point? 14:56:45
15 A Yes. 14:56:48
16 Q What do you recall about that meeting? 14:56:48
17 A I could describe the gentleman to you 14:56:56
18 because I remember specifically what he looked like, I 14:56:57
19 believe he was the director of sourcing or the VP of 14:57:00
20 supply chain, and forgive me for not remembering his 14:57:04
21 title specifically, that meeting was teed up by the 14:57:08
22 Vizient director that -- the client executor that 14:57:13
23 managed that relationship with Johns Hopkins, and they 14:57:17
24 told them that they had a vendor that had a cost 14:57:19
25 savings program around robotic surgery. 14:57:21

1 Clinic. 14:58:33

2 Did I get that right? 14:58:37

3 A Yes, sir. 14:58:38

4 Q And did you ever talk with or meet with 14:58:39

5 the Mayo -- representatives of the Mayo Clinic? 14:58:41

6 A Yes. 14:58:44

7 Q And what -- was it an in-person meeting? 14:58:44

8 A They all took place over Zoom. 14:58:50

9 Q Okay. This is during the -- during the 14:58:52

10 pandemic? 14:58:54

11 A Yes, sir. 14:58:54

12 Q And what -- what do you recall about that 14:58:56

13 Zoom meeting with the Mayo Clinic? 14:58:58

14 A The meetings have all gone the same, and I 14:59:07

15 say that with all honesty, they -- they have a vested 14:59:09

16 interest in finding ways to reduce costs on their 14:59:14

17 robotic surgery. We explained to them the program, 14:59:17

18 they're excited about it. 14:59:21

19 And I didn't finish my statement before 14:59:22

20 about Johns Hopkins. 14:59:24

21 "Keith, this sounds great, let us do our 14:59:28

22 due diligence and we'll get back to you." Every single 14:59:31

23 one of those groups have come back, either via email or 14:59:35

24 a phone call saying, "Keith, Intuitive does not allow 14:59:39

25 us, they will not allow us to do your program, our 14:59:44

1 follow-up questions, Mr. Johnson, based on Mr. Snyder's 15:02:24
2 questioning. 15:02:27
3 15:02:29
4 FURTHER EXAMINATION 15:02:29
5 BY MR. CHAPUT: 15:02:29
6 Q Okay. So, first, you were describing this 15:02:29
7 conversation you had with some folks at Johns Hopkins, 15:02:34
8 and I think you said that Vizient told them that SIS 15:02:37
9 had a cost savings program around robotic surgery; is 15:02:40
10 that right? 15:02:46
11 A Yes. 15:02:46
12 Q Which program was that referring to? 15:02:46
13 A The specific one with Johns Hopkins, I 15:02:56
14 believe. 15:02:56
15 And a lot of those calls started out with 15:03:00
16 us asking that vendor, "Do you mind sharing what your 15:03:03
17 mix of robots is? Do you have any SIS? Do you have 15:03:10
18 any Xi's?" 15:03:16
19 And then that would -- we would base our 15:03:17
20 conversation, excuse me, off of what robots they had, 15:03:18
21 and I think, if I remember specifically, Johns Hopkins 15:03:21
22 didn't have any Si robots at that time, so we were 15:03:24
23 talking them about the recovery and recycle program. 15:03:28
24 Q When did that conversation with Johns 15:03:35
25 Hopkins occur? 15:03:37

1 correctly, 300 or so SIS still in the United States, 15:05:35
2 and I think from what we know now, there's less than a 15:05:41
3 hundred still being used in the states today, so 15:05:45
4 there's not a lot of opportunity for Si conversation. 15:05:47
5 So all of that time that we were not 15:05:50
6 allowed to talk about Si or couldn't talk about Si 15:05:54
7 because of the fear in the industry, it kinda took our 15:05:58
8 opportunity away to be successful with that program. 15:06:01
9 Q Did Johns Hopkins end up going forward 15:06:13
10 with the recovery program that SIS offers? 15:06:18
11 A We did not end up doing any robotic 15:06:22
12 business with Johns Hopkins. 15:06:25
13 Q Did you have any communications with Johns 15:06:27
14 Hopkins by email? 15:06:34
15 A I'm sure we did. 15:06:34
16 Q You also testified about a conversation 15:06:43
17 you had with the Mayo clinic; correct? 15:06:44
18 A Yes. 15:06:47
19 Q When did your conversation or 15:06:48
20 conversations with the Mayo Clinic happen? 15:06:53
21 A Probably right around that same time. 15:06:56
22 Q So that would be late 2021? 15:07:02
23 A Yeah, probably, if I remember correctly, 15:07:04
24 probably a couple weeks or a month after that Johns 15:07:05
25 Hopkins call. 15:07:09

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1 Q Okay. Is either Mayo Clinic or Johns 15:07:09
2 Hopkins a current SIS customer? 15:07:17

3 A No. 15:07:18

4 Q The conversation you had with the Mayo 15:07:18
5 Clinic, was that also specific to the EndoWrist 15:07:27
6 recovery program? 15:07:30

7 A Yes. 15:07:35

8 Q What was the result of your conversation 15:07:35
9 with the Mayo Clinic? 15:07:38

10 A The same result as Johns Hopkins. 15:07:43

11 Q They didn't move forward? 15:07:45

12 A What -- what we were told was, based 15:07:48
13 off -- what I really -- what happened in the industry 15:07:56
14 was when the repair program got launched, people felt 15:07:59
15 that that violated their contract with Intuitive, and 15:08:04
16 once that precedent was set, the conversations have 15:08:08
17 been different since then because there is some 15:08:12
18 hesitancy from the hospitals about does this really, 15:08:16
19 truly affect our -- our service agreement or our 15:08:22
20 warranty with Intuitive or not. 15:08:25

21 Q Did Johns Hopkins and the Mayo Clinic 15:08:27
22 refer to the repair program in any way in these 15:08:33
23 conversations they had with you? 15:08:39

24 A Not that I remember because I don't 15:08:40
25 believe they have any SIS left. I think Johns 15:08:50

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1 STATE OF CALIFORNIA)

2) ss.

3 COUNTY OF LOS ANGELES)

4 I, Vickie Blair, CSR No. 8940, RPR-CRR, in
5 and for the State of California, do hereby certify:

6 That, prior to being examined, the witness
7 named in the foregoing deposition was by me duly sworn
8 to testify as to the truth, the whole truth, and
9 nothing but the truth;

10 That said deposition was taken before me
11 at the time and place therein set forth, and was taken
12 down by me stenographically and thereafter transcribed
13 via computer-aided transcription under my direction and
14 is a true record of the testimony given;

15 I further certify I am neither counsel
16 for, nor related to, any party to said action, nor
17 interested in the outcome thereof;

18 IN WITNESS WHEREOF, I have hereto
19 subscribed my name this 5th day of November, 2022.

20

21

22

23

24

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Vickie Blair, CSR No. 8940, RPR-CRR